IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

Crl.MC.No. 706 of 2007()

AGAINST THE ORDER DATED 05/03/2007 IN CMP 690/07 IN CC.1055/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, CHENGANNUR

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PETITIONER: ACCUSED

T.S.SUDHA, AGED 36 YEARS,
PARAYANAKKADAVU VEEDU, KOLADATHUSERI MURI,
THIRUVANDOOR VILLAGE.

BY ADV. SRI.S.HARIKRISHNAN
SRI.C.UNNIKRISHNAN (KOLLAM)

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. P.S.UNNIKRISHNAN, SOJI NIVAS,
PANDANDU VILLAGE, CHENGANNUR.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 706 OF 2007

Dated this the 20th day of March, 2007

ORDER

The petitioner is the accused in a prosecution under Sec.138 of the Negotiable Instruments Act. The petitioner admits the signature in the cheque; but raises a contention that the handwriting in the cheque is not hers. The petitioner wanted the cheque to be sent to the expert. That application was opposed. In the objections filed, it appears that it is stated clearly that the complainant has no case that the handwriting in the cheque is that of the petitioner. The learned Magistrate, in these circumstances, felt that it was not necessary to waste any further time to get the report of the expert. Accordingly, the learned Magistrate proceeded to pass the impugned order.

2. The petitioner has come to this Court with a prayer that the powers under Sec.482 of the Cr.P.C. may be invoked. The powers under Sec.482 of the Cr.P.C. are to be invoked sparingly and in exceptional cases in aid of justice. The law

frowns upon the challenge against interim orders contributing to the delay in the disposal of cases. Sec.397(2) of the Cr.P.C. contains this legislative disapproval towards challenge against interim orders. Normally and ordinarily the challenge against interim orders must wait till the final disposal of the case by the learned Magistrate.

3. The learned counsel for the petitioner submits that, in fact, the complainant in the complaint and in the course of cross-examination, had made answers to indicate that the accused herself had filled up the cheque. That is inconsistent with the stand taken by the complainant in the objections to the present application. The petitioner shall certainly be at liberty to bring forth this alleged incongruity before the learned Magistrate when the learned Magistrate undertakes the exercise of appreciation of evidence of the complainant. Needless to say that the option of the petitioner to challenge the impugned order along with the judgment disposing of C.C.No.1055/06 shall also remain unaffected. I do not find any reason to invoke the powers under Sec.482 of the Cr.P.C. at this stage.

4. In the result, this Crl.M.C. is dismissed subject to the above observations. I make it absolutely clear that the option of

the petitioner to challenge the impugned order along with the judgment to be passed in C.C.No.1055/06 shall remain unfettered by such dismissal.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge